

Translation

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference D80867PC	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/007140	International filing date (day/month/year) 01.07.2004	Priority date (day/month/year) 08.07.2003	
International Patent Classification (IPC) or national classification and IPC A61L15/24, A61L15/22, A61L15/44			
Applicant STOCKHAUSEN GMBH			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007140

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages 1-44 as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

the claims:
 nos. 1-21 as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____

the drawings:
 sheets _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007140

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application
 claims Nos. 18, 19 (industrial applicability)

because:

the said international application, or the said claims Nos. 18, 19 (industrial applicability)
 relate to the following subject matter which does not require an international preliminary examination (*specify*):

1. Claims 18 and 19 relate to subject matter which, in the opinion of this Authority, falls under PCT Rule 67.1(iv). Consequently, no expert opinion has been established in respect of the industrial applicability of the subject matter of said claims (PCT Article 34(4) (a) (i)).

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claims Nos. _____

the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form	<input type="checkbox"/> has not been furnished <input type="checkbox"/> does not comply with the standard
the computer readable form	<input type="checkbox"/> has not been furnished <input type="checkbox"/> does not comply with the standard

the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

See Supplemental Box for further details.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007140

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																									
<p>1. Statement</p> <table> <tr> <td>Novelty (N)</td> <td>Claims</td> <td><u>1-4, 6, 18-21</u></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td><u>5, 7-17</u></td> <td>NO</td> </tr> <tr> <td>Inventive step (IS)</td> <td>Claims</td> <td><u>1-4, 6</u></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td><u>18-21</u></td> <td>NO</td> </tr> <tr> <td>Industrial applicability (IA)</td> <td>Claims</td> <td><u>1-17, 20, 21</u></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> </table>			Novelty (N)	Claims	<u>1-4, 6, 18-21</u>	YES		Claims	<u>5, 7-17</u>	NO	Inventive step (IS)	Claims	<u>1-4, 6</u>	YES		Claims	<u>18-21</u>	NO	Industrial applicability (IA)	Claims	<u>1-17, 20, 21</u>	YES		Claims		NO
Novelty (N)	Claims	<u>1-4, 6, 18-21</u>	YES																							
	Claims	<u>5, 7-17</u>	NO																							
Inventive step (IS)	Claims	<u>1-4, 6</u>	YES																							
	Claims	<u>18-21</u>	NO																							
Industrial applicability (IA)	Claims	<u>1-17, 20, 21</u>	YES																							
	Claims		NO																							
<p>2. Citations and explanations (Rule 70.7)</p> <p>1. This report makes reference to the following documents cited in the international search report and the passages indicated therein:</p> <p>D1: DE 100 43 710 A (STOCKHAUSEN CHEM FAB GMBH) 21 March 2002 (2002-03-21)</p> <p>D2: DE 42 33 289 A (BEIERSDORF AG) 7 April 1994 (1994-04-07)</p> <p>D3: US 2003/004479 A1 (IRIE YOSHIO ET AL) 2 January 2003 (2003-01-02)</p> <p>D4: DE 102 57 002 A (BASF AG) 12 June 2003 (2003-06-12)</p> <p>1.1 D1 discloses powder-form, water-absorbing polymer particles of partially neutralized, cross-linked polyacrylic acid which can be used as active substance carriers and are partially enclosed by a polyurethane coating.</p> <p>1.2 D2 discloses polyurethane foam gels for wound treatment containing preferably neutralized polyacrylates and, optionally, active substances.</p>																										

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/007140

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
1.3	D3 discloses active substance-containing (plant powder), water-absorbing polymer particles (surface-treated with a cross-linking agent) which are prepared from 75% or 38% partially neutralized polyacrylic acid in the presence of a cross-linking agent. The absorber can be introduced between polyester fibres (polycondensate).
1.4	D4 discloses foamed hydrogels of cross-linked, partially neutralized polyacrylic acid-containing skin-care agents for use as absorbers.
2.	The subject matter of claims 5 and 7-17 does not appear to be novel within the meaning of PCT Article 33(2).
2.1	Claim 1 relates to active substance-doped, water-absorbing polymer particles containing a care substance or a wound-healing substance and an absorbent matrix of partially neutralized polyacrylic acid. Since D1-D4 do not disclose polymer particles which are doped with care substances or wound-healing substances (page 15: doped = worked into the polymer), the subject matter of claim 1 and of dependent claims 2-4 appears to be novel.
2.2	Claims 5, 7, 12 and 17 relate to a water-absorbing composition containing a polycondensate matrix and a particulate, water-absorbing polymer comprising (containing) an active substance.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007140

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

In light of D1-D3, the subject matter of claims 5, 7, 12 and 17 and of dependent claims 8-11 and 13-16 does not appear to be novel.

2.3 The subject matter of claim 6, which relates to a process for preparing the above-indicated composition, differs from the documents already indicated in that the active substance-doped polymer particles are brought into contact with the polycondensate before completion of polycondensate matrix formation. Therefore, the subject matter of claim 6 appears to be novel.

3. The subject matter of claims 18-21 does not appear to involve an inventive step within the meaning of PCT Article 33(3).

3.1 Claim 1 relates to active substance-doped, water-absorbing polymer particles containing a care substance or a wound-healing substance and an absorbent matrix of partially neutralized polyacrylic acid. D1-D4 differ in that the polymer particles are not doped with active substance.

The application shows that such compositions are suitable for releasing active substance.

The problem addressed can be considered that of providing an alternative composition for active substance release.

Since doping (working into the monomer solution),

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007140

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the proposed solution, is not proposed in any of citations, the subject matter of claims 1-4 also appears to involve an inventive step.

For the same reason, the subject matter of claim 6 appears to involve an inventive step.

3.2 The subject matter of claims 18-21 relates to use of the above-indicated compositions for the purpose of releasing a wound-healing substance. Since the subjects of D1, D2 and D4 are all suitable for wound care and can release active substances, their combined application appears obvious to a person skilled in the art.